

**LINCOLN BOARD OF SELECTMEN**  
**MEETING MINUTES**  
**NOVEMBER 23, 2015**  
**LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH**

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**Present:** O.J. Robinson, Patricia McTeague, and Jayne Ludwig.

**Staff Present:** Town Manager Alfred Burbank, Fire Chief Ron Beard, and Recording Secretary Brook Rose.

**Public Present:** Mary Conn, Dave Beaudin, Tammy Gionet Dutilly, Cindy Rineer, Paul Beaudin, Roger Harrington, Steve Noseworthy, Brent Drouin, Schorr Berman, Taylor Beaudin, Steve LaFrance, and Attorney Frank Spinella.

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## **I. CALL TO ORDER**

The Board held a budget work session from 5:00-6:00pm with no public input. Following the work session, O.J. Robinson called the meeting to order at 6:05pm.

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## **II. OLD / NEW BUSINESS**

### **Town Manager's Report**

#### **Announcement of New Public Works Director**

Town Manager Burbank announced that Nathan Hadaway has accepted the position of Public Works Director for the Town of Lincoln. He is currently the public works director in Henniker. Nathan's first day will be December 7, 2015.

#### **Levee Update**

Dubois & King will be sending a cost update to the Town. NHDES has informed Mr. Burbank that they will respond to the Town's request for a written acknowledgement of the Town's position by tomorrow.

#### **Banners Update**

The Town's 250<sup>th</sup> banners have been distributed to the Library, Historical Society, Legion (for the legion AND boy scouts who meet there), and the Community Center. One banner will also be displayed at the town hall. The Chamber of Commerce and White Mountain Visitor Center have also expressed interest in displaying a banner. The family of the first baby born in Town has been determined and will be contacted this week. The Board would like the Chamber of Commerce and the White Mountain Visitor Center to each have a banner.

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## **Ice Castle Traffic Plan**

The traffic plan for the ice castle has been submitted to NHDOT, the Police Department, and Loon Mt Resort for review and comments. Ice castle representatives are planning to attend the November 30<sup>th</sup> Board meeting (6:00pm) to discuss the plan with the Board. Mr. Burbank will forward the draft traffic plan to the Board this evening.

## **Lincoln South Mountain Partners**

Town staff has researched all meeting minutes on the aforementioned party. All documents have been forwarded to legal counsel.

## **Agreement with Loon Mountain Resort for Beechwood One**

Butch explained that an agreement in principle has been reached with Loon Mountain Resort for Beechwood One. Costs for repairing Beechwood One will be split 50/50 with Loon Mt. The engineering is being completed by Hoyle & Tanner and the project will go out to bid once the engineering has been completed.

## **Town Report**

The Board discussed the theme of this year's annual report. It was decided that the theme would be a tribute to civic service.

## **Community Center Update**

The floors at the community center were waxed throughout the building. The company did a great job and the floors look phenomenal.

## **Food Pantry Update**

Last November the food pantry was running extremely low. This year the following generous donations have been made to the food pantry:

- \$1000 anonymous cash donation
- \$376 cash donation from Purple Tomato
- Boy & Girl Scouts donated 876 items from food drive
- Price Chopper donated a full U-Haul truck of food (from residents/community members)
- Anonymous donated 50 Thanksgiving baskets (with the makings for a turkey dinner) which include a gift card for a turkey
- Barnz's & Truant's both held separate food/fundraiser events for the Food Pantry. Donations to be determined.

The Board thanked the community for their generosity as the food pantry is always in need donations.

## **Letter from FEMA**

The Board reviewed a letter from FEMA stating that they will begin surveying the area in December to collect topographical data as part of the FEMA LAMP project.

## **Update on RiverWalk Park Planning Committee (RPPC) Meeting**

Jayne informed the Board that the first meeting of the RPPC went well. All but two members were present. Some concerns of the committee were roadway access in and out of the park as well as sidewalks on Main Street and Pollard Road. Butch stated that some of the members thought they were sitting on a downtown planning committee. He and Jayne informed the RPPC at the meeting that the overall purpose of the committee was to plan a design for a park on the 25 acres of town land. The RPPC was given all of the prior reports on the land. Jayne expects that at the next meeting, the RPPC will lay out what they would like to see in the park. O.J. stated that this is a good diverse group and that the first focus of the group needs to be the park design and once that is in place, the committee is welcome to expand the focus of the group to downtown and sidewalks. The next meeting is scheduled for tomorrow at 4:30pm and will be conducted at the site. Jayne invited Chief Beard to attend the meeting to explain the layout of the land and answer any questions. Town Manager Burbank does not plan to regularly attend the meetings unless so requested.

## **Public Participation**

### **Tammy Dutilly Gionet**

Tammy questioned whether Lady's Bathtub is a public swimming hole. She thought it was posted private property. Butch replied that yes it is public and is posted to use at your own risk. Tammy questioned whether the x-country ski trail on the South Mt. side of the Cooper Memorial Bridge is a free trail for the public to use. The Board was not sure as it is located on private property. Butch offered to contact Loon Mountain Resort to find out.

### **Paul Beaudin**

Paul questioned why the additional 300ft. of levee is being done. O.J. replied that NHDES has mandated that the Town repair this extra 300ft. O.J. explained to Paul why NHDES is mandating this. Butch stated that the Town fought vigorously for six months against this mandate but was not successful. Paul questioned whether the Town took the whole issue of the levee to court. O.J. replied that the Board discussed this endlessly with all attorneys involved but did not go to court. Paul questioned whether there was a consensus of attorneys to say that the Town does not own the levee. O.J. replied that the Town does not own the levee or the land it is on. The Town is responsible for maintaining it to the 1960 standard. The encroachments on the levee were also discussed. O.J. stated that NHDES has agreed that if the Town restores the levee back to the 1960's standard to include the extra 300 ft, they will accept it. Further discussion regarding encroachments, limited liability, and possible future development along the levee ensued.

Paul also requested a copy of the ice castle traffic plan that was submitted to NHDOT. Butch agreed to forward Paul a copy although the Board has not yet had a chance to review the plan.

## **Budget Review**

As there was no further public participation, the Board went back to reviewing the budget. Mary Conn requested a copy of the draft budget.

### III. THE LANDING *Discussion with Shorr Berman*

Frank Spinella, attorney for Saber Mt. Partners, addressed the Board on behalf of Schorr Berman. Attorney Spinella presented the Board with three objectives on behalf of his client. He stated that all developers want the same three things which are as follows:

1. They want the goal posts to stay the same. Mr. Berman would like to have assurance going forward that there will not be new restrictions placed on The Landing. Financial decisions and investments are being made according to these goal posts. Going forward Mr. Berman intends to build the development in phases (as was always his plan)
2. Mr. Berman would like to be treated in a non-discriminatory manner and treated the same as every other developer in Town. The snowball effect of misinformation, unjust slander, and issues with The Landing that are not true to get out to the community at large is damaging to future development. Attorney Spinella stated that it is in his client's best interest as well as the Town's best interest for this project to be completed. It is their hope that in the spirit of cooperation that is coming together between Mr. Berman and the Town will not change and that misinformation will not be spread.
3. Mr. Berman does not want to have to put in place infrastructure that benefits the Town beyond the footprint of The Landing development as any infrastructure outside the development should be borne by the burden of the taxpayers. Specific examples were cited and further discussion ensued.

Attorney Spinella also discussed the dispute that arose between Mr. Berman and the Fire Chief as to what code applied and what the state building codes required. Attorney Spinella stated that if the engineering determines, it is fiscally possible, and once the Donovan's review the plans, Mr. Berman devises to move forward with the installation of two more 10,000 gallon cisterns and two temporary turn arounds on the condition that the goal posts or parameters that the Town agrees to today will not be changed if for example, a new fire chief comes in next year with a different view and decides to mandate new requirements on the development.

Attorney Spinella also brought up the boulder walls at The Landing. He pointed out that his client; Mr. Berman is extremely concerned that the Town will require a permit for any that existing rock walls that are currently grandfathered (constructed prior to stricter state standards) which may need future repair. In any way will be required by the Town to be completely redesigned and reconstructed. He added that for the Town to require a permit and the possible redesign and reconstruction of these pre-existing walls would be acting above and beyond to require more than what state statute dictates. He added that if his client were forced to rebuild all of the walls, it would be prohibitively expensive. Attorney Spinella clarified that he is only speaking of existing grandfathered rock walls and not any newly constructed walls which would of course comply with the new state requirements for rock walls. He added this this same concept should be applied with the new requirement for sprinklers in new construction.

The agreement in principle signed by both Mr. Berman and Town Manager Burbank was also discussed. A handwritten change was made to the agreement by Mr. Berman after both parties had already signed (although the parties disagree about the substance of that change) and initialed by Mr. Berman. Mr. Burbank has decided not to initial the change at this time. Further details of said agreement were discussed.

The Board was in agreement that they support this development and want it to succeed and that it is mutually beneficial to work together to see this project through to completion. O.J. noted the enforcement responsibilities of the Select Board as well as the duties of the Fire Chief to enforce fire and life safety related codes. Jayne expressed her support and apologized for whatever misinformation was given to the community although she added that she had not heard anything. Patricia McTeague stated that she supports the Town Manager and Fire Chief and would like to see what they have to say.

Town Manager Burbank stated that the fact that the permits for The Landing have expired may not preclude the Board from making any agreement with Mr. Berman. The Landing is being scheduled for an upcoming Planning Board meeting to request the extension of those permits. The Select Board most likely does not have the authority to enter into mediation on an unapproved plan/expired permits. The Board will have to wait until the Planning Board acts on the application for extension. Mr. Burbank apologized for any misinformation given to residents at The Landing and stated that Town staff simply states the facts to the best of their knowledge and ability. Any information given out was not done with malicious intent. Mr. Burbank suggested Attorney Spinella make this same presentation that he gave tonight to the Planning Board.

Attorney Spinella stated that he appreciated that the Select Board is limited and that the Planning Board has its own jurisdiction. All parties agreed that this meeting was helpful in clearing the air and presenting a more exact understanding of the project. O.J. stated that he would consider a future agreement with Mr. Berman after he goes through the Planning Board process.

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#### **IV. REVIEW OF MEETING MINUTES**

**MOTION: “To approve the minutes of the November 16, 2015 Board of Selectmen’s meeting as presented.”**

**Motion: McTeague                      Second: Ludwig                      Motion carries unanimously.**

**MOTION: “To approve the non-public minutes of November 16, 2015 Board of Selectmen’s meeting as presented.”**

**Motion: McTeague                      Second: Ludwig                      Motion carries unanimously.**

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#### **V. ADJOURNMENT**

After reviewing the weekly accounts payables, the Board made the following motion.

**MOTION: “To adjourn.”**

**Motion: Ludwig                      Second: McTeague                      All in favor.**

The meeting was adjourned at 7:50pm.

Respectfully Submitted,

Brook Rose

Approval Date 11/30/15

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O.J. Robinson

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Patricia McTeague

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Jayne Ludwig